



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.(MD)No. 18873 of 2019
and Crl.M.P.(MD) Nos. 11067 & 11068 of 2019

WEB COPY

1. Soma Sundaram	... 1 st Petitioner/2 nd Respondent
2. S. Vimala Devi	... 2 nd Petitioner/3 rd Respondent

Vs

1. Suni Nisha Merlin	
2. Minor Jebarin	
(represented by R-1 mother)	... Respondents/Petitioners

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the proceedings in C.C. No. 84 of 2018 on the file of the Judicial Magistrate, Padmanabapuram of Kanniyakumari District and quash the same.

For Petitioners : Mr.M. Gandhi

ORDER

This Criminal Original Petition has been filed to quash the proceedings in in C.C. No. 84 of 2018 on the file of the Judicial Magistrate, Padmanabapuram of Kanniyakumari District as against the petitioners.

2. The learned counsel appearing for the petitioners would submit that the petitioners and the defacto complainant are relatives. Due to family dispute between the petitioners and the second respondent a complaint has been filed and the same has been taken cognizance on the file of the learned Judicial Magistrate, Padmanabapuram, Kanniyakumari District in C.C. No. 84 of 2018 for the offences under Sections 31 & 32 of Protection Act Women from Domestic Violence Act of 2005 r/w rule 15(7). He would also submit that the ingredients of offences would not attract as against the petitioners.

3. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

4. This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

5. At this juncture, the learned counsel appearing for the petitioners prayed that the personal appearance of the petitioners



before the trial Court, may be dispensed with.

6. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

7. The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, **in State of Uttar Pradesh Vs. Shambunath Singh**, reported in **2001 (4) SCC 667**. However, the learned Judicial Magistrate, Padmanabapuram, Kanniyakumari District is directed to dispose the case in C.C. No. 84 of 2018, within a period of **Six Months**, from the date of receipt of a copy of the order.

8. Accordingly, this Criminal Original Petition dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

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To
The Judicial Magistrate,
Padmanabapuram,
Kanniyakumari District.

+1 CC to Mr.M.GANDHI, Advocate (SR-105618[F] dated 18/12/2019)

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